REMARKS

Applicant cancels claims 1-22 and 52 and amends claims 23, 28, 29, 40, 45, 53, and 55-58 such that claims 23-51 and 53-60 remain pending in this application. Applicant respectfully requests allowance of all the pending claims.

Specification Objections

The Examiner objects to the specification because of the improper notation of the trademark "Sentry" within the Application. In response, Applicant amends the specification and the claims to remove all references to the trademark Sentry. Applicant respectfully requests the Examiner to withdraw the objection to the specification.

Claim Rejections – 35 U.S.C. §112

The Examiner rejects claims 1-44 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner believes that the specification fails to enable the claim limitation of "querying a user." Although Applicant disagrees with the Examiner's rejection, Applicant removes the disputed language from the claims in the interest of expediting prosecution of the Application. Applicant respectfully requests the Examiner to remove the §112 rejection.

Claim Rejections – 35 U.S.C. §102

U.S. PUBLICATION NO. 2003/0024256

The Examiner rejects claims 1, 8, 9, 13, 14, 23, 28, 29, 45, 52, 53, and 57 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2003/0024256 ("'256 Publication").

The '256 Publication does not qualify as prior art under 35 U.S.C. §102(e) because it was not filed "by another" as required by the statute. 102(e) requires that for the '256 Publication to qualify as prior art, it must have been invented by another (i.e., other than the sole inventor of the present Application). However, the Applicant of the present Application is the same Jay L. Hanson as the sole inventor of the '256 Publication, and therefore the '256 Publication does not qualify as prior art under 102(e). Applicant respectfully requests the Examiner to remove the '256 Publication from the prior art and remove the rejection based on '256 Publication.

Applicant notes that a Declaration under 37 C.F.R. 1.132 is not required to overcome the 102(e) rejection on this basis.

U.S. PATENT NO. 5,873,520

The Examiner rejects claims 1 and 45 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,873,520 ("Ratgeber").

Independent claim 45 recites a transport temperature control unit having cooling and heating cycles for cooling and heating a conditioned space within a transport to maintain the conditioned space at a temperature setpoint. The unit including a first pre-programmed control mode and a second control mode for maintaining the temperature setpoint. The first control mode is programmable into the unit and the second control mode is programmable into the unit by an end user. The end user selectively determines whether the first pre-programmed control mode is selectable to control operation of the unit within the conditioned space or the second control mode is programmable into the unit to control operation of the unit within the conditioned space. The second control mode is programmable into the unit by the end user when the second control mode is desired by the end user. The unit further includes a programmable temperature range. The programmable temperature range is operable to control the operation of the unit in the conditioned space by being selectively operable to utilize one of the first pre-programmed control mode and the second control mode.

Claim 1 has been cancelled without prejudice and claim 45 has been rewritten to incorporate dependent claim 52, which was not anticipated by Ratgeber. Therefore, Applicant respectfully requests the Examiner to remove the rejection of claim 45 based on Ratgeber.

U.S. PATENT NO. 5,104,037

The Examiner rejects claims 1, 5, 8, 9, 11, 12, 15-17, 23, 24, 26, 27, 33, 36-39, 41-45, 49, 52, 53, 55, 56, and 58-60 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,104,037 ("Karg").

Independent claim 23 recites a method of controlling a transport temperature control unit to maintain a conditioned space within a transport at a temperature setpoint. The temperature control unit includes a programmable temperature range and cooling and heating cycles for cooling and heating the conditioned space. The method includes programming a first pre-

programmed control mode for maintaining the temperature setpoint into the unit, configuring the unit such that a second control mode for maintaining the temperature setpoint is programmable into the unit by an end user, and selecting numerical temperature values for the programmable temperature range. The selection of numerical values is made by the end user. The method further includes selecting the first pre-programmed control mode for operation of the programmable temperature range or to program the second control mode into the programmable temperature range for operation of the programmable temperature range. The selection of the first pre-programmed control mode or to program the second control mode is made by the end user. The method also includes programming the second control mode into the programmable temperature range by the end user when the second control mode is desired by the end user.

Independent claims 23 and 45 recite, among other things, a first pre-programmed control mode for maintaining a temperature setpoint, and a second, user-selectable and user-programmable control mode for maintaining the temperature setpoint. Independent claims 23 and 45 recite similar limitations and are therefore discussed together below.

Karg discloses a control system for remotely controlling climate control devices of a plurality of mass transit vehicles. The control system includes a central command computer that stores pre-programmed temperature/humidity setpoints and that communicate the pre-programmed values with a plurality of microprocessors, which are each located in one of the plurality of mass transit vehicles to control that specific vehicle's climate control device. The control system includes a single pre-programmed control mode, or control process, that includes: (i) storing desired temperature/humidity values; (ii) sensing the tempurature/humidity of the vehicle; (iii) comparing the stored values with the sensed values; (iv) operating the climate control device to reduce the difference between the stored and sensed values, the intensity of the operation dependent on the magnitude of the difference between values. Operators of the vehicles have the option of overriding the stored tempurature/humidity values and entering new desired values. If overridden by an operator, the control system will operate to maintain the new stored temperature/humidity values in the vehicle using the same, single pre-programmed control mode (i.e., process (i)-(iv) identified above).

Karg does not teach or suggest and a second, user-selectable and user-programmable control mode for maintaining the temperature setpoint. Karg does not teach or suggest any second control mode whatsoever. Rather Karg discloses using a single, pre-programmed control

mode that controls the climate control device to maintain the stored tempurature/humidity values, regardless of whether the stored temperature/humidity parameters are pre-programmed or remotely entered later by the operator. In other words, Karg does not have the ability to program a second control mode for maintaining a temperature/humidity value, but only the ability to change the stored temperature/humidity values that are used by the same, singular control mode.

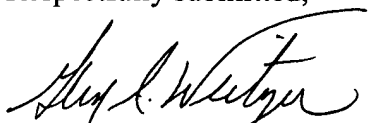
Therefore, Karg does not teach or suggest the subject matter defined by independent claims 23 and 45. Accordingly, independent claims 23 and 45 are allowable. Claims 24-44, and claims 46-51 and 53-60 depend from claims 23 and 45, respectively, and are allowable for the same and other reasons.

Claim Rejections – 35 U.S.C. §103(a)

The Examiner rejects claims 2-4, 6, 7, 10, 13, 14, 18-22, 25, 28-32, 34, 35, 40, 46-48,50, 51, 54, and 57 under 35 U.S.C. §103(a) as being unpatentable over Karg in view of various other references. Each of the remaining pending claims depend from either independent claim 23 or 45 and are therefore allowable for the reasons discussed above as well as other reasons.

The Examiner is invited to contact the undersigned attorney should the Examiner determine that such action would facilitate the prosecution and allowance of the present application.

Respectfully submitted,



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